IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FOURTH DAY OF MAY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR. JUSTICE V.ESWARAIAH

and
THE HON'BLE MR. JUSTICE K.C. BHANU

WRIT PETITION NO : 11420 of 2005

Between:

Orsu Muthyalu, S/o. Yellaiah,
Pedda kaparthy Village, Chityal Mandal,

Nalgonda District.

..... PETITIONER

AND

1 The Motor Vehicle Inspector, Parigi, Ranga Reddy District.
2 The Regional Transport Authority, Nalgonda,

Nalgonda Distrct, Department of Transport,
Government of Andhra Pradesh.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, Order or direction, more in the nature of Writ of Mandamus declaring the action of the Respondent No.1 herein in issuing the Vehicle Check Report bearing No. 0547023, dated 25-02-2005, consequently seizing the Tractor & Trailer of the Petitioner, bearing Nos. AAL-2577 & AAL 2578, as illegal, arbitrary, and violative of Art. 14 & 16 of the Constitution of India.

Counsel for the Petitioner: MR.M.MADHAVA REDDY

Counsel for the Respondents: GP FOR TRANSPORT

The Court made the following :

THE HON'BLE SRI JUSTICE V. ESWARAIAH

AND

THE HON'BLE SRI JUSTICE K.C.BHANU

WRIT PETITION NO.11420 OF 2005

ORDER: (per the Hon'ble Sri Justice V. Eswaraiah)

Heard both the learned counsel appearing for the parties.

The petitioner is owner of tractor and trailer bearing Nos.AAL-2577 and AAL-2578. It is stated that as certain Tandur stones are required for extension of his house and for store room for his agricultural produce while transporting stones on 25.2.2005, the said tractor trailer was checked and found certain irregularities that the said vehicle with the load of stones was plying on hire, tax was not paid for the quarter in 31.3.2005, and F.C., and driving licence were not produced. Accordingly, the said vehicle was seized by the respondent authorities, vide Vehicle Check Report No.0547023, dt.25.2.2005, under Section A.P.Motor Vehicles Taxation Act and under Section 207 of the Motor Vehicles Act. Questioning the said seizure, the petitioner filed Writ Petition No.7436 of 2005 which was disposed of on 11.4.2005 directing the respondents to dispose of the application submitted by the petitioner within three days from the date of submission of such application. The petitioner filed application for release of the vehicle. Instead of considering the application for

release of the vehicle, a show cause notice dt.27.4.2005 is issued demanding tax from 1997 to 2005.

Learned counsel appearing for the petitioner submits that the demanded amount need not be paid in respect of tractor owned by agriculturist, that the tractor was being used only for agriculture purpose, and that it was never hired for transportation of any goods. Further, the proceedings demanding payment of tax is a matter to be decided during the regular course of enquiry and after submitting explanation by the petitioner, but the respondents cannot refuse to consider application of the petitioner for release of the said vehicle. It is further stated that the tax, prior to the period during which the vehicle was seized, cannot be demanded as there is no evidence to show that the tractor was plied on hire.

Without going into the contentions as regards to the liability to pay tax and penalty, it is just and proper to direct the respondents to release the vehicle forthwith on the petitioner depositing a sum of Rs.10,000/- (Rupees ten thousand only), which would be subject to the orders that may be passed by the authorities under A.P.Motor Vehicles Taxation Act and Motor Vehicles Act, and filing an undertaking that he will not alienate, transfer or change the vehicle and produce it as and when required during the course of enquiry.

With the above observations and directions, the Writ Petition is disposed of.

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(V. ESWARAIAH)

24.5.2005

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(K.C. BHANU)

bnr

DEPUTY REGISTRAR

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SECTION OFFICER

To

1 The Motor Vehicle Inspector, Parigi, Ranga Reddy District.
2 The Regional Transport Authority,

Department of Transport,
Government of Andhra pradesh,

Nalgonda, Nalgonda District.

3 2 CCs to G.P. for Transport, High Court Bldgs., Hyderabad (OUT)

4 2 CD copies